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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,190	05/15/2001	Raymond Clarke	13282-1	9310

23676 7590 09/02/2008
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100 Corson Street
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PASADENA, CA 91103-3842

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1794

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09/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09858190	5/15/2001	CLARKE, RAYMOND	

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EXAMINER

Steven L. Weinstein

ART UNIT	PAPER
1794	20080627A

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on 12/11/07 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

It does not appear that applicant has addressed the references that were newly applied in the Office action mailed 12/28/06. These references, which include, J. of Experimental Botany, Tropical agriculture, Refrigeration (1973), Foods and Food Ingredients (Japan 1998), Intl. Conference of CA Packaging (1984), Annals of Botany (1947), and Proc. Atm. Res. Conf. (1989), Intl. J. of Food Science and Technology (1988), and HortScience (1971), were all relied on as further evidence of the conventionality of manipulating the well known process variables inherent in preserving and storing produce, and specifically the O₂ concentration, which is what applicant appears to be urging is the major difference compared to the art taken as a whole. Note that Wade (J. of Experimental Botany (1974) even provides various O₂ gas atmospheres, including one within the recited range, at the time when green bananas are exposed to ethylene to determine the effects of different O₂ levels and green banana ripening.

To expedite prosecution, it is also noted that applicant has pointed out that the claims now recite that there is an equilibrium atmosphere in which the O₂ content has a "substantially" constant value which is from 14-19%. However, note that the specification (p.15, para.1) discloses the packaging atmosphere, for at least "part" (and thus is not a "constant" value) of the period before the bananas reach their climateric contains various concentrations of O₂, including the recited range, and in Table 2, the O₂ level drops from 15.5 to 2.2. It would therefore appear that some further clarification of the length of time or the state of the bananas would be required to make sense of the "constant" value.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

/Steve Weinstein/
Primary Examiner, Art Unit 1794